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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Revision of the Commission's Rules to Ensure)
Compatibility with Enhanced 911 Emergency)
Calling Systems)

CC Docket No. 94-102

Pine Belt Cellular, Inc.)
Petition for Waiver of Section 20.18(c))
of the Commission's Rules and the)
Deadlines Established in the)
Fourth Report and Order)

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To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER

Pine Belt Cellular, Inc. ("Pine Belt"), by its attorneys, and pursuant to Sections 1.3 and 1.925 of the Commission's Rules,¹ hereby requests a waiver of Section 20.18(c) of the Commission Rules and the June 30, 2002 deadline for compliance with 911 text telephone ("TTY") obligations for digital wireless carriers.² A waiver is warranted due to the fact that Pine Belt confronts circumstances that will render compliance with the deadline economically infeasible. To further the public interest, Pine Belt proposes a

¹ 47 C.F.R. §§ 1.3 and 1.925.

² 47 C.F.R. § 20.18(c) (the TTY Rule); *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Fourth Report and Order*, CC Docket No. 94-102, FCC 00-436 (rel. Dec. 14, 2000) (Fourth Report and Order). The Fourth Report and Order established a deadline of December 31, 2001 for digital wireless carriers to have obtained all software upgrades and equipment necessary to make their systems compatible of transmitting 911 calls from TTY devices. *Id.* at para. 8. The Commission recognized, however, that some solutions might not be commercially available by that deadline and established June 30, 2002 as the "final deadline." *Id.* at para. 9. Accordingly, to the extent necessary, Pine Belt also requests retroactive waiver of the December 31, 2001 deadline.

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specific deployment schedule to implement a TTY solution in the most efficient and expeditious manner.³ Accordingly, the Commission should grant this instant waiver.

I. Background

Pine Belt provides cellular service in the RSA 3B2 market and PCS service in the Selma, AL BTA. Pine Belt has chosen to implement CDMA technology in its network and has selected Lucent Networks as its infrastructure vendor.

II. Waiver is Warranted

Grant of waiver of the Commission's Rules is warranted when

[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁴

Pine Belt's waiver request satisfies this standard.

A. Pine Belt Confronts Unique and Unusual Circumstances That Are Beyond Its Control

Pine Belt depends on Lucent, as well as handset manufacturers, to make its network TTY-compatible. Currently, Pine Belt has the Lucent release 5E-13 installed in its network. In order to make its network TTY-compliant, Pine Belt must upgrade its system to release 5E-16. This requires expensive hardware and software upgrades.

The estimated cost to Pine Belt of making the requisite upgrades is almost \$500,000. Such a cost is extremely high for a small wireless service provider like Pine

³ The Petitioner is providing analog service within the licensed service area. Accordingly, the public would not be harmed by a temporary waiver because alternative access to TTY exists.

⁴ 47 C.F.R. § 1.925(b)(3)(ii).

Belt. Currently, Pine Belt is facing substantial costs to comply with all regulatory mandates, and is significantly hampered by budgetary constraints.

For the past year and a half, Pine Belt has been diligently seeking to obtain funding for the necessary software upgrades. Without proper funding, Pine Belt cannot even execute a purchase order with Lucent to make the necessary upgrades. Pine Belt's efforts to secure funding have included communicating with RUS since the end of calendar year 2000. Only within the past month, however, has RUS begun to consider granting funding to Pine Belt, a circumstance beyond Pine Belt's control. Pine Belt is still diligently seeking to secure financial resources to make the requisite upgrades; to date, however, Pine Belt has been unable to secure such funding.

Accordingly, it would be inequitable, unduly burdensome, and contrary to the public interest, to require a small, rural carrier like Pine Belt to comply with TTY requirements by the June 30, 2002 deadline.

C. Grant of the Waiver Would Further the Public Interest

Pine Belt is not requesting a blanket waiver of the Commission's TTY Rule but, rather, it is requesting waiver only to the extent that these requirements could not be accomplished in an economically feasible way. Accordingly, Pine Belt seeks an extension of the deadline until March 31, 2003 to allow it to obtain the necessary funding, as well as purchase and implement the TTY solution in the most efficient and expeditious manner.⁵ During the temporary extension period, Pine Belt would continue

⁵ Further, the public would not be harmed by grant of such relief due to the fact that individuals with speech or hearing disabilities could continue to use TTY devices with wireless telephones in an analog mode.

to submit quarterly progress reports to keep the Commission apprised of progress towards compliance.

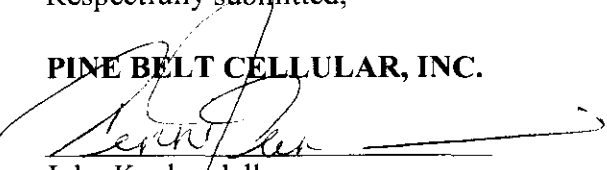
III. Conclusion

Unique and unusual circumstances render Pine Belt's ability to meet the June 30, 2002 compliance deadline impossible due to factors beyond its control. Imposition of a rule that is economically infeasible for this carrier to meet would be inequitable, unduly burdensome and contrary to the public interest. To advance the public interest, the FCC should extend the deadline for Pine Belt to comply with the TTY requirements until March 31, 2003.

Respectfully submitted,

PINE BELT CELLULAR, INC.

By:


John Kuykendall
Terri Granison

Its Attorneys

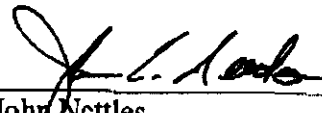
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June 28, 2002

DECLARATION

I, John Nettles, President of Pine Belt Cellular, Inc. ("Pine Belt"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Waiver" and the information contained therein that pertains to Pine Belt is true and accurate to the best of my knowledge, information and belief.


Date: 6/28/2002



John Nettles
Pine Belt Cellular, Inc.

CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 28th day of June 2002, via hand delivery to the following parties:


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